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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/665,717

09/17/2003

Jonathan Fanger

101896-0207

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05/15/2006

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EXAMINER

STEWART, ALVIN J

ART UNIT

PAPER NUMBER

3738

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-8, 10-15, and 17-30 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 10, 11, 13, 15, 17-23, 25 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Jensen US Patent 3,320,832.

Jensen discloses a drill assembly comprising a drill guide (17), an elongated shaft (1 & 20), an elongated hollow sleeve (2) and a stop member (7 & 8). The elongated shaft has a proximal and distal end. The sleeve is slidably disposed around at least a portion of the shaft, and the sleeve includes a stepped region. The stop member is disposed around the shaft and adjustable to mate to the shaft at a plurality of fixed positions along a length of the shaft. The stop member being effective to abut the hollow sleeve.

Regarding claims 2-4 and 17-19, see Figures 1-2.

Regarding claim 20, see element 3.

Regarding the word “adapted to” in multiple claims, it has been held that the recitation that an element is “adapted to” perform a function is not a positive limitation but only requires the

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ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Allowable Subject Matter

Claims 6-8, 12, 14, 24, and 26-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J. Stewart whose telephone number is 571-272-4760. The examiner can normally be reached on Monday-Friday 7:00AM-5:30PM(1 Friday B-week off).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ALVIN J. STEWART
PRIMARY EXAMINER
Art Unit 3738

May 04, 2006.